

13 OCT 2005

10/523153
ATTORNEY DOCKET
NO. 83950

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: **BIRD et al.**

Appln. No.: **10/523,153**

Filed: **January 27, 2005**

Title: **A BULK COMMUNICATIONS
PROCESS USING MULTIPLE
DELIVERY MEDIA**

Group

Art Unit: **Not Yet Assigned**

Examiner: **Not Yet Assigned**

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PETITION UNDER 37 C.F.R. §1.47(a)

Legal Staff
International Division

Sir:

The above-identified US national phase application of PCT/AU2003/000954, was filed January 27, 2005, in the United States Patent and Trademark Office. The subject application was filed with an unsigned Declaration and is subject to a Notification of Missing Requirements requiring an executed Declaration. Seven inventors are named on the present application. Five inventors has signed the Declaration and two inventors, Kevin Bryan Levine and Michael Robert Stewart, refused to sign. It is hereby requested that the enclosed Declaration signed by five inventors be accepted under 37 C.F.R. §1.47(a) due to the refusal of the joint inventors Levine and Stewart to sign.

The last known address of joint inventor Levin is:

Mr. Kevin Bryan Levine
36a Roe Street
North Bondi, NSW 2026 Australia

03/01/2006 CSM00T 00000001 061135 10523153
Sale Ref: 00000001 DAB: 061135 10523153
01 FC:1462 400.00 DA
02 FC:1463 200.00 DA

The last known address of joint inventor Stewart is:

Mr. Michael Robert Stewart
7 Foss Street
Glebe, NSW 2037 Australia

Mr. Levine and Mr. Stewart were employees of Trade Wind Marketing PTY Limited at the time when the invention, which resulted in the priority application, was made. Trade Wind Communications was an assignee of the invention by virtue of a deed of assignment dated July 26, 2002 (copy enclosed herewith), and filed an international application number PCT/AU2003/000954 on July 29, 2003. As former employees of Trade Wind Marketing PTY Limited, and because of a signed general invention Deed of Assignment, inventors Levine and Stewart are obliged to sign papers necessary to complete the filing of patent applications. A number of attempts was made to obtain the signatures of Mr. Levine and Mr. Stewart, as indicated in the enclosed Statutory Declarations signed by Mr. Frank A. Favretto, the Chairman of the Board of Directors of Trade Wind Communications Limited, and by Mr. Neville Zammit, a Secretary of Trade Wind Communications Limited, however, Mr. Levine and Mr. Stewart have refused to sign the Declaration.

This Petition is accompanied by the following documents:

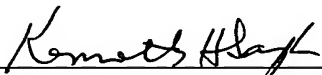
1. Declaration signed by five joint inventors, Nicholas R. Bird, Robert Silver, Alexander J. Omillian, Paul H. Ginns, and Michael Markham;
2. Statutory Declaration signed by Mr. Frank Anthony Favretto, the Chairman of the Board of Directors of Trade Wind Communications Limited who attempted to obtain a signature on the Declaration from Mr. Levine;
3. Employment Contract of Michael Stewart with Trade Wind Marketing Pty Ltd, indicating Intellectual Property Proprietary Rights on page 4 thereof;
4. Deed of Release between Kevin Levine and Trade Wind Group PTY Limited and Trade Wind Communications Limited, indicating Intellectual Property rights on page 3 thereof;
5. Deed of Assignment of July 26, 2002, between Trade Wind Marketing PTY Limited and Trade Wind Communications Limited relating to the subject matter of present invention; and
6. Statutory Declaration signed by Mr. Neville Zammit, a Secretary of Trade Wind Communications Limited, who attempted to obtain a signature on the Declaration from Mr. Stewart.

Applicants hereby request that conduct of the inventors Levine and Stewart be construed as a refusal to sign and that the included Declaration signed by five joint inventors be accepted on behalf of all the inventors of the above-identified US application.

The Commissioner is hereby authorized to charge Deposit Account 06-1135 with the petition fee in the amount of \$130.00 (*Trans. No. 25433*) for filing the present Petition, and any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135. A duplicate copy of this request is enclosed.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By 
Kenneth H. Samples
Registration No. 25,747

Date: October 6, 2005

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